

**ENVIRONMENTAL ASSESSMENT
FOR
CUNNINGHAM and GREELEY DITCH
RIGHT-OF-WAY OR 60105**

EA Number: OR-030-04-011

Lease/Serial/Case File Numbers: OR 60105

BLM Office: Vale District, Malheur Resource Area

Proposed Actions Title/Type: Ditch Right-of-Way

Location of Proposed Action: Willamette Meridian, Oregon
T. 26 S., R. 46 E.,
sec. 4, lots 2 and 3, SE¼NE¼.

Applicants: Ronald Cunningham and Andrew Greeley

Preparation Date: Draft – 6-30-2004

1. PURPOSE OF AND NEED FOR THE PROPOSED ACTION

Ronald Cunningham and Andrew Greeley have submitted a right-of-way application (OR 60105) to authorize the construction, operation, maintenance and termination of portions of a ditch to divert water from Succor Creek to the Carter and Spring Creek drainages near Rockville. The portions of this proposed ditch would be located within the following described public land (Exhibits B and C):

Willamette Meridian, Oregon
T. 26 S., R. 46 E.,
sec. 4, lots 2 and 3, SE¼NE¼.

The applicants have the necessary water rights and authorization from the State of Oregon to divert and use water from Succor Creek. The current point of diversion for this water is a reservoir on the Succor Creek drainage in Idaho. Without the reservoir, Succor Creek would likely not be a perennial stream. The applicants plan to divert some of the water for which they have rights, downstream from where it is currently diverted. The purpose would be to supply adequate water to the Carter and Spring Creek drainages to allow for efficient irrigation of crops. The ditch would supply water to existing hay fields located between the two smaller creeks.

2. CONFORMANCE WITH LAND USE PLANS

The Southeastern Oregon Resource Management Plan (SEORMP), approved September 2002, includes the subject public lands. The proposed action conforms

with this land use plan as required by the regulations found at 43 CFR 1610.5-3 (a). The SEORMP and Record of Decision includes the following management action, “Meet public needs for use authorizations such as rights-of-way, leases, and permits consistent with other resource objectives.” (p. 109)

The proposed action conforms with Goal 3 of the Oregon Statewide Planning Goals (December 1974) which seeks to “preserve and maintain” agricultural lands.

Implementation of the proposed action would further Goal 3 of the Malheur County Comprehensive Plan (June 1985) which also seeks to preserve and maintain agricultural land, and would conform with Goal 4, Strategy 3 of the Malheur County Strategic Plan (December 1996) which espouses promoting the sustainability of agribusiness.

3. RELATIONSHIP TO STATUTES, LAWS AND REGULATIONS

The authority for the issuance of rights-of-way is Title V of the Federal Land Policy and Management Act of 1976 (90 STAT. 2776; 43 U.S.C. 1761). The regulations found at 43 CFR 2800, and BLM Manual 2800 provide direction and guidance for the issuance and management of rights-of-way.

4. PROPOSED ACTION AND ALTERNATIVES

4.1 PROPOSED ACTION-PREFERRED ALTERNATIVE

Ronald Cunningham and Andrew Greeley have submitted a right-of-way application (OR 60105) to authorize the construction, operation, maintenance and termination of portions of a ditch to divert water from Succor Creek to the Carter and Spring Creek drainages near Rockville, Oregon. The portions of this proposed ditch would be located within the following described public land (Exhibits B and C):

Willamette Meridian, Oregon
T. 26 S., R. 46 E.,
sec. 4, lots 2 and 3, SE $\frac{1}{4}$ NE $\frac{1}{4}$.

The ditch would be 3 to 5 feet in width and 2 to 3 feet deep, and the maximum grade would be 1/10 inches per 100 feet. To maintain this grade, the ditch would follow the contour of the land on the north side of a small hill (see Exhibits B and C). Three separate segments of the ditch would be located on public land. This right-of-way would be approximately 3,130 feet in length, 15 feet in width and would contain 1.08 acres, more or less.

The proposed action is to issue a right-of-way for the portions of the ditch located on public land pursuant to Title V of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended. This is the preferred alternative.

4.2 NO ACTION ALTERNATIVE

Under this alternative the right-of-way application would be denied, and Messrs. Cunningham and Greeley would not be authorized to construct and use the ditch.

4.3 OTHER ALTERNATIVES

Other alternative routes are limited because of the need to follow the contour of the land to achieve the desired grade of the ditch to allow gravity flow of the water it is intended to conduct. Such alternative routes may be made feasible by the installation of siphons, pumps, aqueducts or other features. However, the intent of the applicants is simply to construct a ditch by excavation only in order to minimize the costs of construction and maintenance.

The proposed route appears to be the most technically feasible of the possible routes which could be plotted. For this reason, other alternatives will not be considered further.

5. AFFECTED ENVIRONMENT

A general description of the area may be found in the Southeast Oregon Resource Management Plan.

The site of the proposed ditch right-of-way is about 1¼ miles northeast of Rockville School. Carter and Spring Creeks are tributaries of Succor Creek and join it just north of this location. The ditch would supply water to existing hay fields between the two smaller creeks.

Cultural Resources:

Prehistoric

The Native people of the Northern Great Basin practiced their ancestral lifeways into the 19th century and were heirs to an extremely ancient cultural tradition. Their technology was effective and efficient, utilizing many multifunctional, light-weight and expendable tools. Gathering activities are attested to by digging sticks, carrying baskets, and milling stones, and hunting is represented by the atlatl and dart, bow and

arrow, stone projectile points, stone knives and scrapers.

Historic

Cultural resources associated with the historic use of this area are tied to landforms as transportation corridors: wagon roads, historic homesteads, early irrigation project features, early mining activity areas, and remains of stage and telegraph stations. Exploration into this area by white Europeans began in the early 1830's.

During the 1880's, small communities were established near reliable water sources, and during the 1890's, production of both cattle and sheep prospered. The area around Rockville was first settled in order to provide supplies to the miners in the area of Silver City, Idaho. Such supplies included cattle, sheep, swine, fruit and grains.

A survey of the originally proposed route and the alternate route was conducted on June 4, 2004, by the Field Office archaeologist. No significant resources were discovered at that time.

Paleontological Resources: The exploration for fossil localities has been limited, and confined to Pliocene, Miocene or Pleistocene age soils. The geology of the area of the ditch is composed of alluvial deposits, so the probability of the presence of fossil remains originating in situ is low.

No fossil flora or faunal resources were located during field surveys conducted on June 4, 2004.

Native American Concerns: There are no known Native American concerns in this area. There are no known plant gathering or tool stone quarries in this area.

Land Uses: The middle and western segments of the ditch route are located in the Three Fingers Allotment (10503), while the eastern segment is located in the Spring Mountain Allotment (10504). Due to their location next to irrigated pasture, and in a remote area of the Spring Mountain Allotment, these lands are not normally grazed by livestock. Uses other than dispersed recreation have been limited in the past due to the location of lands adjacent to private cultivated land.

There are no mining claims located on the proposed ditch right-of-way.

Recreation: The project site is located within an area which receives limited dispersed recreational use through activities such as hunting.

Soils: Soils in the area consist primarily of alluvial deposits brought in by Succor, Carter and Spring Creeks.

Vegetation: The natural vegetative community at this location is dominated by

sagebrush; other plant species occurring on the site include grasses and forbs. No special status plant species were discovered by Bill Olsen, Biological Technician, during the June 4, 2004 inventory.

The vegetation on the proposed right-of-way consists of native species and weeds. These include the following:

Native Species	
Bitterbrush	<i>(Purshia tridentata)</i>
Bluebunch wheatgrass	<i>(Pseudorogneria spicatum)</i>
Wyoming big sage	<i>(Artemesia tridentata spp. wyomingensis)</i>
Basin wildrye	<i>(Elymus cinereus)</i>

Invader Species (Weeds)	
Cheatgrass	<i>(Bromus tectorum)</i>
Tumble mustard	<i>(Sisymbrium altissimum)</i>

Visual Resources: The site of the proposed right-of-way area is located within a VRM Class III area.

Water Resources: The proposed ditch would divert water from Succor Creek to the Carter and Spring Creek drainages.

Wetlands/Riparian Zones: There are riparian zones associated with Succor, Carter and Spring Creeks.

Wildlife: The area provides habitat for wildlife typical of Great Basin areas. These include elk (winter), mule deer, coyote, sage grouse, and a variety of birds, reptiles and insects.

Fisheries: Succor Creek is a perennial stream, while Carter and Spring Creeks are intermittent streams. Succor Creek provides habitat for native redband trout.

6. ENVIRONMENTAL IMPACTS

6.1 IMPACTS OF THE PROPOSED ACTION

Impacts to resources considered critical are summarized in the table below. Discussion concerning those resources affected may be found in the appropriate section following the table.

Critical Element	Affected		Critical Element	Affected	
	Yes	No		Yes	No
Air Quality		X	Ground Water Quality		X
ACECs		X	Surface Water Quality		X
Cultural Resources		X	Wetlands/Riparian Zones		X
Farmlands, Prime/Unique		X	Wild and Scenic Rivers		X
Floodplains		X	Wilderness		X
Native American Religious Concerns		X	Invasive, Nonnative Species Wilderness		X
T & E Species		X	Environmental Justice		X
Wastes, Hazardous/Solid		X	Adverse Energy Impact		X

Cultural Resources: There would be no adverse effects resulting from the implementation of the proposed action on cultural resources if the Special Stipulations (Exhibit A attached) are adhered to.

Paleontological Resources: There would be no adverse effects to paleontological resources if the Special Stipulations (Exhibit A attached) are adhered to.

Native American Concerns: There would be no adverse effects on native American concerns as a result of the implementation of this action.

Land Uses: Implementation of the proposed action would not conflict with the authorized uses occurring on this tract.

Issuance of this right-of-way would conform with Goal 3 of the Oregon Statewide Planning Goals (December 1974) which seeks to “preserve and maintain” agricultural lands. Implementation of the proposed action would further Goal 3 of the Malheur County Comprehensive Plan (June 1985) which also seeks to preserve and maintain agricultural land, and would conform with Goal 4, Strategy 3 of the Malheur County Strategic Plan (December 1996) which espouses promoting the sustainability of agribusiness.

Recreation: Implementation of the proposed action would not conflict with the dispersed recreational activities occurring in the area.

Soils: Implementation of the proposed construction activities would result in soil disturbance at the locations of the portion of the canal to be constructed.

Vegetation: Vegetation on the proposed ditch sections would be removed, certainly that on any portions requiring mechanical grading. Fresh ground disturbance may facilitate the spread of noxious weeds or nonnative species.

Visual Resources: Implementation of the proposed action would be in keeping with VRM Class III requirements.

Water Resources: Implementation of the proposed action would temporarily affect water quality in Succor, Carter and Spring Creeks.

Wildlife: The issuance of the proposed right-of-way would have minimal effects on wildlife in the area.

6.2 IMPACTS OF THE NO ACTION ALTERNATIVE

The choice of this alternative may result in one of two scenarios. Under the first, the right-of-way would not be issued and the ditch may not be built, and water from Succor Creek would not be used efficiently for the production of agricultural crops in the Carter and Spring Creek drainages. The applicants have the legal right to use the water in this manner, and may pursue administrative and legal relief if BLM withholds authorization without sufficient cause.

Under the second scenario, an alternate route would be constructed entirely within the boundaries of private land utilizing whatever features would be needed to construct a viable ditch. The costs for this construction may be prohibitive, and may thus result in the first scenario.

No additional vegetation or soil disturbance on the subject public land would occur as a result the choice of this alternative.

7. **MITIGATION MEASURES AND RESIDUAL IMPACTS**

The loss of vegetation resulting from the implementation of the proposed action is not considered to be significant. Soil disturbance would be minimized through adherence to the terms and conditions of the right-of-way, including the attached Special Stipulations (Exhibit A). In general, adverse environmental impacts would not be significant.

8. **PERSONS/AGENCIES CONSULTED**

<u>Name</u>	<u>Position</u>
Bob Alward	Outdoor Recreation Planner
Brandon Knapton	Wildlife Biologist
Jean Findley	Botanist
Jon Freeman	Realty Specialist/Team Leader
Diane Pritchard	Archaeologist
Steve Christensen	Range Management Specialist
Lynne Silva	Weed Specialist
Shaney Rockefeller	Hydrologist
Cynthia Tait	Fisheries Biologist
Bill Olsen	Biological Technician

9. **RECOMMENDATION**

It is recommended that Right-of-Way OR 60105 be issued to Ronald Cunningham and Andrew Greeley to authorize the construction, operation, maintenance and termination of a ditch on public land north of the Rockville, Oregon as described in the Proposed Action section above. This right-of-way would be granted pursuant to Title V of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and would be subject to the Act, applicable regulations contained in 43 CFR 2800 and the Special Stipulations attached to and made part of the grant. It is further recommended that this right-of-way be issued for 20 years, subject to renewal, and subject to valid existing rights.

The proposed action is in conformance with the Southeastern Oregon Resource Management Plan and is consistent with state and local land use plans.

Issuance of this right-of-way will not conflict with any foreseeable development plans on the subject lands if the recommended stipulations are adhered to.

The United States owns the surface and mineral estates of the subject lands.

The subject lands have no known unique values, and there are no pending land use

applications other than this.

The issuance of the grants would be consistent with Title V of FLPMA and with the regulations found at 43 CFR 2800.

Preparer: _____

Date: _____

FINDING OF NO SIGNIFICANT IMPACT

I have reviewed Environmental Assessment OR-030-04-011 including the explanation and resolution of any potentially significant environmental impacts. I have determined that the proposed action with the mitigation measures described below will not have any significant impacts on the human environment and that an EIS is not required. I have determined that the proposed project is in conformance with the approved land use plan.

Authorized Official: _____ s/Tom Dabbs Date: July 19, 2004
Field Manager
Malheur Field Office

DECISION RECORD

It is my decision to implement the project as described in EA OR-030-04-011 with the mitigation measures identified below.

Mitigation measures/Remarks:

Authorized Official: _____ Date: _____
Field Manager
Malheur Field Office